**Court No. 3**

Criminal Revision No. 124 of 2003

Kant Swaroop Saxena ……..... Revisionist

Versus

Principal Judge Family Court,
Udham Singh Nagar & Others ……Opposite Party

**Hon'ble Irshad Hussain, J.**

Heard. This is a criminal revision against the judgment order and dated 8.8.2003 passed by the Principal Judge, Family Court, Udham Singh Nagar allowing the application of the wife respondent no. 2 preferred under Section 125 of the Criminal Procedure Code for maintenance and granting her maintenance @ Rs. 2000/- per month from the date of the presentation of the application.

2. Heard Sri D. S. Mehta learned counsel for the revisionist and Sri S. K. Mandal learned counsel for the respondent no. 2. and perused the record.

3. It is not dispute that the parties are living separately and the husband-revisionist had even filed a divorce petition under Section 13 of the Hindu Marriage Act, 1956 which is pending disposal. The husband volunteered that he is not prepared to keep his wife -respondent no. 2 with him as he apprehend danger to his life and property at the hands of his wife. It is thus evident that in the circumstances, the wife-respondent no. 2 has sufficient reason to reside spearetely from the husband. Since she is reading separately on account of the sufficient reason, she is entitled to an adequate maintenance from her husband, if the husband otherwise has the capacity to provide maintenance allowance. The learned Principal Judge has considered this aspect of the matter also by observing that the husband is a Class-IV employee and has an earning of more than 5,000/- per month. The wife - respondent no. 2 has filed the counter affidavit and copy of the statement of the husband has been annexed as

Annexure-CA-1. Its perusal reveal that the husband-revisionist himself stated that he used to give Rs. 2,000/- per month, in the case for the maintenance of his wife. This indicate that he has the capacity to party with so much of amount per month and, therefore, on the question of quantum also the finding of the learned Principal Judge appear to be based on proper appraisal of the facts and circumstances and the material on record.

4. The respondent no. 2 wife has rightly been held entitled to maintenance from the husband and the maintenance allowance @ Rs. 2,000/- per month cannot be said to be on excessive said.

5. Considering this, there is no merit in this revision and the same deserve to be dismissed. Revision is dismissed. Stay order dated 4.9.2003 is vacated.

**(Irshad Hussain, J.)**

Dated 14.10.2003

Rawat